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C O N F I D E N T I A L SECTION 01 OF 03 QUITO 002463

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SUBJECT: PALACIO CONSIDERS COMPROMISE, CONGRESS APPEALS TO OAS

Classified By: PolChief Erik Hall for reason 1.4 (b&d).

11. (C) Summary: President Alfredo Palacio told the Ambassador on October 27 that he was considering sending a new referendum proposal to Congress which would allow voters to decide between constituent and constitutional assemblies to make political reform. The Ambassador urged strict adherence to the constitution and respect for international treaty commitments. Palacio later pledged both while calling on the military to act as custodians of Ecuador's democracy. Congress, meanwhile, passed a resolution on October 27 rejecting a constituent assembly and calling for OAS intervention under the Democratic Charter to defend democracy here. Thus far, Palacio has not crossed constitutional lines, despite rumors that he might. If Palacio follows through by submitting his proposal to Congress, a constitutional crisis could be averted. Our efforts will seek to ensure respect for the constitution by all sides. The situation on the streets remains calm. We offer suggested press guidance and action recommendations in paras 10-14. End Summary.

12. (C) Palacio met with the Ambassador at her request on October 27 to discuss the current confrontation with Congress over his proposal to convoke a national constituent assembly to make political reforms. Palacio said that despite the political crisis at home, he would travel to the Summit of the Americas meetings at Mar del Plata next week. He will be accompanied by FM Francisco Carrion and presidential advisor Luis Herreria, among others. Trade Minister Jorge Illingworth would not attend due to a personal schedule conflict involving medical treatment, and would be represented by Vice Minister Manuel Chiriboga.

Palacio Considering Surprise Proposal to Congress  
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13. (C) Turning to the ongoing confrontation with Congress over procedural issues involved in convoking a referendum, President Alfredo Palacio told the Ambassador that he was planning a surprise move: to send to Congress on October 28 a referendum proposal asking the public whether they approve of a national assembly, and if so, whether they prefer a constituent or constitutional assembly. This corresponded to what Pol and EconCouns heard from Palacio's legal advisor earlier. With rumors running rampant that Palacio intended to bypass the constitution as well as Congress by convoking a referendum by presidential decree, Palacio held that sending the measure to Congress would help calm political tensions which are uniting much of Congress against him. Press reported Palacio's intentions to submit a new referendum proposal to Congress on October 28.

Plan B: If Congress Rejects, Back to TSE  
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14. (C) Palacio told the Ambassador that he now has the majority four votes in the Supreme Electoral Tribunal (TSE) needed to convoke a constituent assembly, and that he would consider calling them in if Congress rejected his new proposal. The Ambassador told Palacio that this could potentially be a very controversial move, noting that most observers believe any proposal involving changes to the constitution must go through the Congress. She stressed repeatedly the importance for the U.S. and the international community of staying within a constitutional framework.

Plan C? Enlisting Military Support  
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15. (C) Earlier the same day, at the Air Force 85th anniversary and promotion ceremonies, Palacio addressed the military in a regularly-scheduled event. Press quoted him calling on the Armed Forces, "in the spirit of your historic role as custodian of the democratic spirit of the people" to "protect what our people are creating in this powerful democratic process to bring to a referendum the decisions on the destiny of our people." He also said his "absolute commitment to the constitution, the law, and national interests, is what distinguishes my presence in the presidency." He also called on the armed forces to respect all forms of expression adopted by the citizenry to rebuild democracy.

## OAS Calling, Congress Inviting

16. (C) Palacio told the Ambassador that he had received a call from OAS SecGen Insulza expressing concern that he was contemplating actions that could be construed as unconstitutional. Palacio asked the Ambassador to help him allay OAS concerns. On October 28 Palacio convoked all OAS ambassadors to a palace event in which he offered an extended self-justification and revealed his new intention to send a new referendum proposal to Congress, along the lines he had described the night before to the Ambassador.

17. (U) Apparently unbeknownst to Palacio at the time of his meeting with the AMB, the Congress passed on the same day a resolution requesting that the OAS intervene in Ecuador's political process, citing the OAS Democratic Charter. The resolution passed with 68 votes, from all parties except the MPD, Pachakutik, and the Socialists. The resolution also urged Palacio to respect the constitution and questioned the constitutionality of an undefined constituent assembly.

18. (C) The resolution was delivered to the OAS representative later on October 27. During his October 28 address to the OAS diplomatic corps, Palacio referred obliquely to the Congressional appeal, referring to it as an "international conspiracy" to bypass his constitutional authority. He denied the existence of a conflict between the executive and Congress, defended himself against accusations of undemocratic moves, and said that sending his new proposal to congress would obviate any need for outside help.

## FTA Clarification

19. (C) Palacio also told the Ambassador that his public comments that the FTA with the U.S. and the resolution of the Occidental Petroleum commercial dispute could be decided by the constituent assembly were taken out of context. He assured her that a constituent assembly would not be empowered to overturn prior agreements, including the Manta CSL agreement. He said he believed the FTA would be passed by Congress prior to a constituent assembly, making it untouchable.

## Comment, Suggested Guidance, and Action Plan

10. (C) Thus far, Palacio has stayed within democratic bounds. The move to send the assembly issue back to Congress is a welcome development which should help lower political temperatures somewhat, at least temporarily. The exhortation to the military is exaggerated in press reports intent on fomenting confrontation with Congress. Our military contacts reported satisfaction with the president's remarks, which they interpreted as restrained, given the political situation. The street, meanwhile, remains calm after minor disturbances earlier in the week.

11. (C) Palacio is clearly sincere in his desire to make political reforms, but he still fails to recognize the full political implications of his plans, and overestimates his ability to control the outcome of a constituent assembly. We will continue to emphasize the absolute necessity of staying within constitutional bounds, and safeguarding our bilateral interests.

12. (U) Public diplomacy strategy: The situation here is still unfolding, and we recommend responding to press queries with our usual points, with a slight modification to emphasize staying within the bounds of the constitution:

-- the call for a constituent or constitutional assembly is an internal matter to be decided by the Ecuadorian government and people;

-- the Ecuadorian people deserve a democratic system which works to the benefit of all citizens; and,

-- we are committed to help Ecuadorians find ways to strengthen democratic institutions, as long as these efforts respect constitutional bounds.

13. (C) OAS Role: Palacio has rejected Congress' call for OAS help, and it may not be necessary yet, given his change of tactics with Congress. We see an OAS mediating role as potentially helpful in educating Palacio about the restraints on his constitutional role, but do not recommend invocation of the Democratic charter without Palacio's consent at this time.

14. (C) Next Steps: We will continue to encourage dialogue, restraint, and respect for democratic institutions, including Congress. The POTUS meeting with Andean Presidents in Mar del Plata will offer another possible opportunity to emphasize respect for democratic processes.

